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C O N F I D E N T I A L SECTION 01 OF 02 MADRID 001357

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DRL/MLGA FOR LAURA JORDAN  
IO/RHS FOR RACHEL LEATHAM AND AMY OSTERMEIER

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SUBJECT: UNHRC: SPAIN LOOKING FORWARD

REF: STATE 91929

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Classified By: DCM Hugo Llorens for reasons 1.4 (b) and (d)

¶1. (C) SUMMARY: MFA Deputy Director General for Human Rights told Poloff July 11 that Spain, while understanding U.S. concerns, was "not deeply unhappy with the results" of the UNHRC institution building process. Fernandez-Arias said that the package deal agreed to in Geneva was the best outcome possible under difficult circumstances; he acknowledged that the EU went along with the chair's acceptance of the deal because it is focused on moving ahead with actual work. Regarding the irregularity in which Canada was not permitted to force a vote, Fernandez-Arias said he did not have all of the details from Spain's mission in Geneva, but he suggested that these sorts of things were known to occasionally happen when proceedings go late into the night in Geneva. Spain will support the U.S. at the UN Third Committee, though Fernandez-Arias said the Portuguese Presidency was disinclined to run the Belarus resolution. Spain also agrees with the U.S. position that the Universal Periodic Review must have teeth. END SUMMARY.

//MADE BEST OF BAD SITUATION//

¶2. (C) Poloff met with Fernando Fernandez-Arias, MFA Deputy Director General for Human Rights, on July 11 to discuss the outcome of the June UNHRC institution building session. Fernandez-Arias said he understood U.S. disappointment with the outcome and agreed in principle to many U.S. objections. However, he said that the choices on the table this year were not between an ideal U.S. outcome or the eventual package deal; rather, the choices were between the package deal and a worst-case scenario that would have permanently eliminated all special rapporteur mandates and required a two-thirds majority vote on all country specific resolutions. While the elimination of the Belarus and Cuba mandates coupled with the preservation of the permanent agenda item on Israel/OPT was indeed a "dismal outcome" according to Fernandez-Arias, the EU had at least fought to preserve the rights to create special rapporteurs and have simple majority country specific resolutions - this under difficult circumstances with OIC and NAM countries outnumbering Western votes.

//UNHRC STILL IN INFANCY//

¶3. (C) Fernandez-Arias emphasized that the UNHRC is still a new institution and needs time to find its place. Speaking without instructions, he said he very much hoped that the

U.S. would seek a seat on the Council and actively engage in the process. He noted that members of the NAM and OIC and some African nations seemed to initially view the UNHRC as an extension of the UNSC in which they held a majority and could use their "new toy" to contradict the Security Council - specifically the U.S. veto on resolutions on Israel. Thus, three anti-Israel resolutions had passed in the first year. Fernandez-Arias expressed his belief that this preoccupation within the OIC was fading somewhat, and he hoped that this issue would abate in the future. Fernandez-Arias said that Spain very much agrees with the U.S. desire to see a UPR process with teeth, ensuring that Belarus and Norway do not receive equal treatment. On condemnatory resolutions, Fernandez-Arias said that the EU would also support a good cop approach of joint declarations between the nation and the UNHRC, because such measures could be toughly worded and require troubled governments to acknowledge their problems and commit to resolving issues. He pointed to a previous joint declaration with Colombia that had proven effective over time. The EU would still support condemnatory resolutions as one tool of many.

14. (C) Regarding the refusal to permit Canada to call a vote, Fernandez-Arias said that he did not have all of the details from the Spanish delegation in Geneva, but he did not accept the U.S. characterization of an irregularity. He said there was likely some miscommunication or misunderstanding, which he said was not unusual when deliberations went late into the night in Geneva. He underscored that the EU's priority was moving forward with actual human rights work and making the Committee a viable institution.

//THIRD COMMITTEE COUNTRY RESOLUTIONS//

15. (C) Regarding the UNGA Third Committee, he said that the U.S. could count on Spanish and EU support, although the Portuguese presidency had internally expressed no interest in

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running the Belarus resolution. Having lost the Uzbekistan resolution in 2006, the EU would probably be wary of taking the lead on Belarus. The EU will continue to run Burma and the DPRK. The UNHRC would follow up with Sudan on its September agenda, and a Third Committee resolution might be an option after that meeting. On Zimbabwe, Fernandez-Arias said Spain supports the UK position completely, but he noted that the EU was split on the issue and would likely not achieve consensus.

//KEEP UNGA AND UNHRC SEPARATE//

16. (C) Fernandez-Arias asked if the U.S. expected EU support in reestablishing the Cuba and Belarus rapporteurs at the UNHRC or at the UNGA Third Committee. Spain would work with the U.S. within the UNHRC, but if the U.S. intention was to use the Third Committee to reinstate the rapporteurs, he said that Spain would not provide its support, based on the principal that the UNGA and the UNHRC should not be duplicating work or legislating separate bodies. He speculated that the EU would not support reopening the institution building process in the Third Committee. Spain would like to see the UNHRC become a main UN body alongside UNGA, UNSC ECOSOC and the ICJ after the first four-year review.

//U.S. NEGATIVITY NOT HELPFUL//

17. (C) Fernandez-Arias said that the U.S. had always taken a negative view of the UNHRC, including voting against its creation. Spain, on the other hand, while not impressed with the work accomplished thus far, still has patience and is willing to keep working to improve the Council. He said, "The Committee is here to stay; we must make the most of it and make it work." He said it should not be allowed to become a useless institution like the Conference on Disarmament or UNCTAD. Speaking without instructions, he

again said he would welcome a more active U.S. role.

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